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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,194	12/22/2004	Nobuaki Yagi	040894-7146	6809
9629 7590 05/27/2009 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER				
LOPEZ, MICHELLE				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
05/27/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/519,194

**Applicant(s)**

YAGI ET AL.

**Examiner**

Michelle Lopez

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to the amendment filed on 2/25/09.

#### *Response to Arguments*

2. Applicant's arguments filed 2/25/09 with respect to the rejection of claims 2-5 under 35 U.S.C. § 112, second paragraph, have been fully considered and are persuasive. Therefore, the rejection of claims 2-5 under 35 U.S.C. § 112, second paragraph, has been withdrawn.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Yoshie (USPN 6,634,536).** Yoshie discloses a lock mechanism of a table of an electric stapler (col. 13, lines 38-67, cont. in col. 14, lines 1-37), comprising: a table 210, pivotally supported by a main frame 23 of the electric stapler (fig. 46), and including a clincher mechanism 200 that pivots to bend a leg portion of the staple penetrated through the sheets along the sheets, and a wing piece 251 formed on each side of the table; locking means 201 formed between each wing piece of the table and the main body frame (see fig. 55), wherein a pivoting force in an opening direction of the table is hampered by engaging the locking means with each wing piece (figs. 46 and 55; col. 14, lines 1-15); wherein each locking means comprises a lock plate 202 including a locking pin 32

engageable with the wing piece 251 at one thereof and supported by the main body frame at other end side thereof, and wherein, by engaging the locking pin with the wing piece to hamper the wing piece from being pivoted, the pivoting force in the opening direction of the table is hampered (figs. 46 and 55; col. 14, lines 1-15).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshie (USPN 6,634,536).** Yoshie discloses a lock mechanism of a table of an electric staple substantially as claimed including a locking pin via 32 as discussed above in paragraph 2, but fails to disclose wherein the locking means comprises an eccentric cam (claim 4) or locking teeth engageable with engaging teeth, i.e. teeth and rack configuration (claim 5) rather than a locking pin. However, the use of a locking means as an eccentric cam (i.e. a cam member having an engageable projecting portion equivalent to a pin) and a teeth and rack configuration is well known in the art and the Examiner takes official notice that their use is common knowledge in the locks art, for example, for the purpose of providing efficient lock means easy to manufacture and low in cost.

***Allowable Subject Matter***

5. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The lock mechanism of a table of an electric stapler as recited in claim 3 of the instant invention, including: an operating piece formed at the lock plate, and an operating cam arranged to be brought into contact with and to be separated from the operating piece, fail to be taught by the prior art cited of interest.

Akizawa et al. (5,009,355) shows an electric staple comprising a table 4 pivotally driven by a cam mechanism (13, 14).

Magnusson et al. (USPN 5,460,313) shows an electric stapler having an operating cam 35 capable of locking a table 12 in an opening direction upon engagement of the operating cam 35 with an operating piece 42.

However, the prior art cited of interest fail to show wherein the table is locked in an opening direction upon separation of the operating cam from the operating piece.

***Response to Arguments***

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

8. For the reasons above the grounds of rejection are deemed proper.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the attached PTO-892 for related art.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/  
Patent Examiner

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721